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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,561	07/23/2003	Jong-Hoon Lee	1293.1766	6631

21171 7590 03/07/2007
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EXAMINER

HALEY, JOSEPH R

ART UNIT	PAPER NUMBER
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2627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/624,561

Applicant(s)

LEE ET AL.

Examiner

Joseph Haley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. (US 6741534) in view of Okumura (US 5444687).

In regard to claims 1 and 6, Takahashi teaches an apparatus to determine an area of an optical disc, comprising: a pickup that reads/records a signal from/to the optical disc (fig. 8 element 203); a spindle motor that revolves the optical disc (202); and a controller that counts a number of wobble syncs for one rotation of the optical disc at a current position of the pickup, compares the number of counted wobble syncs with a reference number of wobble syncs, and determines the current position of the pickup based on a comparison result, when wobble sync information read by the pickup indicates that the pickup is present in an area of the optical disk that is greater than or equal to 95 minutes (column 15 lines 28-33. In regard to the limitation "greater than or equal to 95 minutes", the apparatus of Takahashi would inherently do this everywhere on the disc), wherein the optical disc has an absolute time of 99 minutes (all discs inherently have an absolute time) and wherein the controller comprises: a memory that stores a reference number of syncs for each track of the optical disc; a counter that counts the number of syncs for each track at the current position of the pickup; and a location determination unit that compares the number of counted syncs

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with the reference number of syncs and determines the current position of the pickup based on the comparison result (column 15 lines 28-33) However, Takahashi et al. does not teach this with ATIP information.

Okumura teaches ATIP information being a modulated on recorded wobble signal (column 9 lines 44-50).

The two are analogous art because they both deal with the same field of invention of recording onto an optical disc.

At the time of invention it would have been obvious to one of ordinary skill in the art to provide the apparatus of Takahashi et al. with the ATIP information of Okumura. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Takahashi et al. with the ATIP information of Okumura because of the reliability of ATIP information.

In regard to claims 2, 7, and 11 Takahashi et al. and Okumura teach all the limitation of claim 11 except wherein one block corresponds to 2 Kbytes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have one block correspond to 2 Kbytes .The motivation would have been: optimization/experimentation in the course of routine engineering. Moreover, absent a showing of criticality, i.e., unobvious or unexpected results, the relationships set forth in claim 11 is considered to be within the level of ordinary skill in the art.

Additionally, the law is replete with cases in which the mere difference between the claimed invention and the prior art is some range, variable or other dimensional

limitation within the claims, patentability cannot be found.

It furthermore has been held in such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range(s); see *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Moreover, the instant disclosure does not set forth evidence ascribing unexpected results due to the claimed dimensions; see *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338 (Fed. Cir. 1984), which held that the dimensional limitations failed to point out a feature which performed and operated any differently from the prior art.

In regard to claims 4, 5, 8, 9, 12 and 13 Takahashi et al. and Okumura teach the location determination unit determines that the pickup is present in a lead-in area when the number of counted ATIP syncs is less than the reference number of ATIP syncs and the location determination unit determines that the pickup is present in an area other than a lead-in area when the number of counted ATIP syncs is greater than the reference number of ATIP syncs (since the lead-in area is at the smallest radius of the disc and all other areas are at greater radii, the number of syncs would be smaller in the lead-in area than all other areas. Therefore if the number of syncs in the first data area is considered the reference value, this limitation is met).

In regard to claims 10 and 18, see claims 1 and 6 rejections above.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. and Okumura in view of Park (US 6466535).

In regard to claims 14 and 15, Takahashi et al. and Okumura teach all the elements of these claims except a computer readable medium having a computer executable instructions stored thereon.

Park teaches a computer readable medium having a computer executable instructions stored thereon (claim 29)

At the time of invention it would have been obvious to one of ordinary skill in the art to provide the apparatus of Takahashi et al. and Okumura with the computer program of Park. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Takahashi et al. and Okumura with the computer program of Park because computer readable media are reproducible, small and easy to manufacture.

In regard to claims 16 and 17, see claims 4, 5, 8, 9, 12 and 13 rejections above.

Response to Arguments

2. Applicant's arguments filed 11/1/06 have been fully considered but they are not persuasive. In regard to applicant's arguments on page 8, paragraph 1, applicant states "in the case of an optical disc having an absolute time of 99 minutes, 90 - 99 minute areas are present in both a lead-in area and the area other than the lead-in area, i.e., a program area or a lead-out area, as shown in FIG. 3. Therefore, whether a pickup is present in the lead-in area or an area other than the lead-in area must be determined. Otherwise, when the pickup is present in a 95 - 99 minute area, a seek error may occur". However the examiner maintains this rejection because no where in the claim does it state that there are lead-in and lead-out areas present in the 90-99 minute area.

On page 9, paragraph 1, applicant argues that the term ATIP is not recited in Takahashi, the examiner has amended the rejections for claims 4,5,8,9 and 12 to include the intended use of Okumura.

On page 10, applicant requests a reference that uses a computer readable medium having executable instructions: the examiner provides Park (US 6466535) see claim 29.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Haley whose telephone number is 571-272-0574. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrh 


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